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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,633	01/31/2006	Katsuo Kazahaya	0523630031	7544
20277 7590 04/03/2009 MCDERMOTT WILL & EMERY LLP 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096				
EXAMINER				
MILLER, DANIEL H				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

***Response to Arguments***

1. Applicant's arguments filed 3/18/2009 have been fully considered but they are not persuasive.
2. Applicant's remarks have been carefully considered however it is not clear that the term "aggregation of diamond fine grains" used in the claims does not also encompass the grain structure of Phillips. Applicant does not provide a definition within the instant specification and while applicant can be his own lexicographer the applicant can not define terms post filing of the application during prosecution. The grain size of Phillip is substantially similar to applicant's (see Final rejection) and are considered to be encompassed by a diamond layer having an "aggregation of diamond fine grains" as claimed. Applicant's remarks regarding the spectrum of the disclosed invention and Phillips is non-commensurate in scope with the instant claimed invention. Applicant has not claimed the argued features.
3. Further, it is the examiner's position that the surface roughness would be inherent; or in the alternative would have been obvious to provide since the Phillips reference discloses providing a smooth surface (see rejection and arguments of previous final rejection). No patentable distinction is seen.
4. Finally, applicant's other characterizations regarding the technical disclosure of the references and the instant invention are only presented in the form of attorney argument and if they are to be fully relied upon by the examiner for determination of

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patentability would be most properly presented in affidavit form from signed by a technical expert and not as attorney argument only.

5. Rejection maintained.

/KEITH D. HENDRICKS/

Supervisory Patent Examiner, Art Unit 1794